IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

1. CRIMINAL WRIT PETITION NO.973 OF 2006

Mr. Satish Tandaon, .. Petitioner.
Vs
1. Mr Atul Shah, and anr .. Respondents

Mr Pawaskar with Mr H.V.Vyas, for the petitioner.
Mr Mahendra V Swar, for respondent no.1.
Mr A.S.Shitole, APP for the respondent-State.

WITH

2. CRIMINAL WRIT PETITION NO.974 OF 2006

Mr. Satish Tandaon, .. Petitioner.
Vs
1. Mr Atul Shah, and anr .. Respondents

Mr Pawaskar with Mr H.V.Vyas, for the petitioner.
Mr Mahendra V Swar, for respondent no.1.
Mr R.Y.Mirza, APP for the respondent-State.

WITH

3. CRIMINAL WRIT PETITION NO.975 OF 2006

Mr. Satish Tandaon, .. Petitioner.
Vs
1. Pushp Holding Ltd, and anr .. Respondents

Mr Pawaskar with Mr H.V.Vyas, for the petitioner.
Mr Mahendra V Swar, for respondent no.1.
Mr S.V.More, APP for the respondent-State.

WITH

4. CRIMINAL WRIT PETITION NO.976 OF 2006

Mr. Satish Tandaon, .. Petitioner.
Vs
1. Pushp Holding Ltd and anr .. Respondents

Mr Pawaskar with Mr H.P.Vyas, for the petitioner.
Mr Mhendra V Swar, for respondent no.1.
Mr P.A. Pol, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.
DATED : 1st August, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. All the four writ petitions are directed against the orders dated 8.3.2006 passed by the Sessions Court dismissing the revisions filed by the petitioner challenging the order "issue process" passed by the learned Metropolitan Magistrate, 6th Court, Mazgaon, Mumbai in all the four complaints filed by the respondent-complainant under section 138 of Negotiable Instruments Act. The cheques in question were issued by the petitioner-accused some time in March, 2005. Admittedly, all the cheques were dishonoured and they were returned by the Bank to the complainant with the return memos. Perusal of the complaints and the documents annexed thereto, prima facie, show that the offence under section 138 is made out. The documents relied upon have a presumptive value in law. The challenge to the order "issue process" was mainly on the ground that the transaction in question had taken place some time in December, 1999 and the cheques were issued in March, 2005 and, therefore, the claim of the petitioner was barred by limitation and in view thereof the liability, if any, cannot be stated to be enforceable in law. In short, it was contended that the claim of recovery itself was barred by limitation and, therefore, the liability was

not enforceable by law. The arguments advanced by the learned counsel for the petitioner cannot be considered and appreciated at this stage on the basis of the documents produced with the memo of petitions since the process has been issued on the basis of the averments in the complaint and the documents relied upon in support thereof have presumptive value in law. The presumption of law can be rebutted only during trial. I am informed that the trial has already begun. The learned advocate for the petitioner-accused has also started cross-examination of the witness. Keeping that in view and considering the overall facts and circumstances of the case, I am not inclined to interfere with the order impugned in the instant writ petitions. All the writ petitions are, therefore, dismissed. All contentions are kept open to be raised during trial. The trial Court shall decide the cases on merits in accordance with law and uninfluenced by the observations made in this order.

(D.B.BHOSALE,J.)